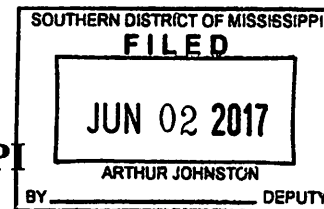


**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**



DOUGLAS HANDSHOE)	
)	
)	
v.)	CIVIL ACTION NO. 1:15cv382-HSO-JCG
)	
VAUGHN PERRET, CHARLES LEARY &)	
DANIEL ABEL, D/B/A/ TROUT)	
POINT LODGE LTD OF NOVA SCOTIA)	
& IN THEIR INDIVIDUAL CAPACITIES)	
PROGRESS MEDIA GROUP LIMITED,)	
MARILYN SMULDERS & ASHOKA)	
)	

**MEMORANDUM IN SUPPORT OF MOTION FOR AN EXTENSION OF TIME SERVE
SUMMONS ON TROUT POINT LODGE, LIMITED OF NOVA SCOTIA**

Plaintiff Douglas Handshoe respectfully submits this memorandum in support of his Motion for an Extension of Time to Serve Summons on Defendant Trout Point Lodge, Limited.

BACKGROUND

The procedural background in this matter is contained in the orders of this Court dated January 20, 2017 (ECF 89) and May 11, 2017 (ECF 137), which granted Plaintiff's request to Amend his Complaint for Damages and which authorized the Clerk to issue the Trout Point Summons which also required Plaintiff to return the executed summons on June 2, 2017.

As is stated in the Third Amended Complaint Trout Point Lodge Ltd is a Canadian Limited company with its registered office at 189 Trout Point Road, East Kemptville, NS B5A 5X9, Canada. At the time the court entered its order allowing Plaintiff to file the Third Amended Complaint, the Lodge, its registered office and its accompanying cabins, which are located on a gated, private road, was closed for the winter season and it remained closed until May 13, 2017.¹

¹ Please see Gillespie Affidavit at ECF 135-2 and Trout Point Lodge website printout at ECF 130-1.

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Trout Point Lodge, Limited is a Canadian Limited Company with its registered office in Nova Scotia, Canada thus it is not subject to the time limits for service of a summons contained in Federal Civil Procedure Rule 4(m). However, this Court in its sound discretion via order dated May 11, 2017 established a deadline for the return of the Trout Point Lodge, Ltd summons on June 2, 2017.

Plaintiff has been advised by his Nova Scotia Barrister Wayne S. Rideout, Esq, who engaged Garnet Horton, a Nova Scotia Provincial Civil Constable to serve the summons to Trout Point Lodge, Ltd. on Plaintiff's behalf that Trout Point Road remains gated and posted despite the Defendants' advertisements that the Lodge is now open for business to the public. Mr. Rideout's Affidavit sent to Plaintiff today via email along with Attachments A through D is shown at Exhibit 2 to the accompanying Motion for An Extension of Time.²

The Defendants' actions constitute a continuing pattern of behavior where they have actively evaded the Service of the Summons in this matter. The previous returns submitted on Defendants Leary and Perret at ECF Numbers 49 and 50 details the efforts two process servers made on two separate trips to the Lodge to affect service on Leary and Perret, despite both being present at the Lodge the entire time. Constable Horton, at ECF Numbers 58 and 59, detailed Leary and Perret refusing service on July 29, 2016 at the Lodge and were it not for him catching them at the local grocery store, service of the second amended complaint may still not have been accomplished by this date.

Further, since the Defendants were certainly aware of this Court's order dated May 11, 2017 which established the June 2, 2017 return date, Defendant Trout Point Lodge, Ltd., via its

² Plaintiff anticipates the arrival of Mr. Rideout's original affidavit by Thursday June 8, 2017.

Registered Agent/Instant Defendant Charles Leary is most certainly deliberately evading service of process in order to defeat the Court's June 2, 2017 deadline for the filing of the return.³

LAW AND ARGUMENT

"....good cause is likely (but not always) to be found when the plaintiff's failure to complete service in timely fashion is a result of the conduct of a third person, typically the process server, the defendant has evaded service of the process or engaged in misleading conduct, the plaintiff has acted diligently in trying to effect service or there are understandable mitigating circumstances, or the plaintiff is proceeding pro se or in forma pauperis." *Holmes v. Coast Transit Auth.*, 815 So. 2d 1183, 1186 (Miss. 2002) (quoting 4B *Charles Alan Wright & Arthur R. Miller, Federal Practice & Procedure* § 1137, at 342 (3d ed. 2000)).

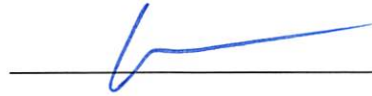
In this instant matter three different Nova Scotia Provincial Civil Constables have sworn returns which detailed a variety of ways the Defendants have tried to evade Service of the Writ of Summons and Copy of the related Complaints in this matter. Additionally, the Affidavit of Wayne S. Rideout, Esq. attached to the Motion accompanying this Memorandum makes clear the futility of the most recent attempts to serve the Summons and Complaint upon Trout Point Lodge, Limited due to the deliberate actions of the Defendants as they continue to hide behind a gate in order to prevent the service of the summons.

The continuing actions of the Defendants constitute "Good Cause" for which this Court has broad discretion to grant relief to Plaintiff. The Plaintiff respectfully requests three weeks extension of time to serve summons (and by separate Motion for Court Authorization for

³ To the extent the Third Amended Complaint details the same allegations against Defendants Leary, Perret and Trout Point Lodge, Limited it is highly likely the Defendants' Limited Company will be represented by the same Counsel currently enrolled on their behalf.

Substituted Service by posting Summons and Complaint to the Front Gate of the Lodge at Trout Point Road) upon Defendant Trout Point Lodge, Limited.

Respectfully submitted this 2nd day of June, 2017,

A handwritten signature in blue ink, appearing to read 'Douglas Handshoe', is written over a horizontal line.

Douglas Handshoe, Plaintiff
Post Office Box 788
110 Hall Street
Wiggins, MS 39577
(601) 928-5380
earning04@gmail.com

CERTIFICATE OF SERVICE

I, Douglas Handshoe, hereby certify that on June 2, 2017, the foregoing was sent for electronically filing by me via the Clerk of the Court using the ECF system which sent notification to all counsel of record upon filing by the Clerk.

Respectfully submitted this 2nd day of June, 2017,



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